

Chapter 78 SUBDIVISIONS AND OTHER LAND DIVISIONS*

***Cross reference(s)**--Any ordinance dedicating, accepting or vacating any plat or subdivision saved from repeal, § 1-11(a)(13); buildings and building regulations, ch. 10; community development, ch. 18; environment, ch. 26; historical preservation, ch. 38; planning, ch. 66; streets, sidewalks and other public property, ch. 74; utilities, ch. 94; vegetation, ch. 98.

State law reference(s)--Land Division Act, MCL 560.101 et seq.

ARTICLE I. IN GENERAL

Secs. 78-1--78-30. Reserved.

ARTICLE II. SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 78-31. Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Generally. All terms, as defined in the Land Division Act (MCL 560.101 et seq.), shall control, unless indicated to the contrary in this section.

Alley and service drive mean a passage or way affording generally a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

Highways, major streets and parkways mean the highways, major streets and parkways designated as such on the major street plan.

Local street and collector street mean a street intended to provide access to neighborhoods or sub-neighborhoods.

Major street plan means the master plan of highways, major streets and parkways adopted by the planning commission.

Minor street means any street, not a highway, major street, parkway or local street, and intended to provide access exclusively to properties abutting thereon.

Subdivide and subdivision mean the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of this article by sections 108 and 109 of the Land Division Act (MCL 560.108, 560.109). The terms "subdivide and subdivision" do not include a property transfer between two or

more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance.

Zoning ordinance means the city zoning ordinance.

(Code 1975, § 19-3)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 78-32. Purpose.

The purpose of this article is to provide for orderly growth and harmonious development of the community, to secure coordinated development in conformance with the general plan of the city, including public facilities, to achieve individual property lots of maximum utility and livability and to control building in floodplains and to set standards for lot sizes.

(Code 1975, § 19-2)

Sec. 78-33. Minimum requirements; effect of article on other ordinances, laws or regulations.

The provisions of this article shall be held to be the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the city. The provisions of this article are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or ordinances of the city, nor conflict with any statutes of the state or county, except that this article shall prevail in cases where its provisions impose a greater restriction than is provided by existing statutes, laws, regulations or ordinances.

(Code 1975, § 19-4)

Sec. 78-34. Penalty for violations.

Any person violating any of the provisions of this article shall be responsible for a civil infraction.

(Code 1975, § 19-5)

Secs. 78-35--78-50. Reserved.

DIVISION 2. PROCEDURES

Subdivision I. In General

Sec. 78-51. Phases of preparation for platting.

The preparation of a subdivision for platting shall be carried out through three phases as follows: Pre-preliminary plat investigation, preliminary plat and final plat, all in accordance with the procedure outlined in this article.

(Code 1975, § 19-17)

Sec. 78-52. Pre-preliminary plat investigation.

Prior to the preparation and filing of a preliminary plat, the proprietor may meet informally with the planning director while the plat is in sketch form in order that he may become familiar with procedures, standards, availability of, and adequacy of facilities and proposals of the master plan as they affect the area in which the proposed subdivision is located. No commitments can be made by either the director or the planning commission at this stage as to the official acceptance of the preliminary plat.

(Code 1975, § 19-18)

Secs. 78-53--78-70. Reserved.

Subdivision II. Preliminary Plat*

***State law reference(s)**--Preliminary plats, MCL 560.107 et seq.

Sec. 78-71. Procedure.

The procedure for preparation and submittal of a preliminary plat of land area to be subdivided shall be as set out in this subdivision.

(Code 1975, § 19-25)

Sec. 78-72. Approval required.

No person proposing to make or to have made a subdivision or resubdivision within the territorial limits subject to the provisions of this article shall enter into any contract for sale or shall offer for sale, such subdivision or any part thereof, or proceed with any construction on the proposed subdivision, including grading, until he has obtained from the city commission the tentative approval of the preliminary plat of the proposed subdivision.

(Code 1975, § 19-26)

Sec. 78-73. Scale.

The horizontal scale of the preliminary plat of a subdivision shall be 100 feet or less to the inch and the vertical scale of street and sewer profiles shall be 20 feet or less to the inch.

(Code 1975, § 19-27)

State law reference(s)--Minimum scale, MCL 560.111.

Sec. 78-74. Contents generally.

The preliminary plat of a subdivision shall clearly show the following features and information:

- (1) The proposed name of the subdivision, which name shall not duplicate or closely approximate the name of any other subdivision in the county.
- (2) The tract designation according to the real estate records of the register of deeds of the county.
- (3) The names and addresses of the owners of record, the subdivider and the engineer or surveyor.
- (4) The names of adjacent subdivisions and the names of record owners of adjacent parcels of unplatted land.
- (5) The boundary lines, accurate in scale, of the tract to be subdivided.
- (6) The location, widths and the names of all existing or platted streets or other public ways within or adjacent to the tract, and other important features such as existing permanent buildings, large trees, watercourses, railroad lines, corporation lines, township lines, section lines and similar features.
- (7) Existing sewers, water mains, culverts and other underground structures within the tract of land and immediately adjacent thereto, with pipe sizes and grades indicated.
- (8) Contours with intervals of five feet or less, referenced to Muskegon City Datum or U.S. Geological Survey Datum, as and when required by the planning commission.
- (9) The layout, proposed names and widths of proposed streets, alleys and easements; the location and approximate sizes of catch basins, culverts and other drainage structures; the layout, numbers and approximate dimensions of proposed lots. Proposed street names shall not duplicate or closely approximate any existing street names in the county, except coterminous streets.
- (10) The profile of each street, with tentative grades indicated.
- (11) The cross section of each proposed street, showing the width of the pavement, the location and width of sidewalks and the location and size of utility mains.
- (12) The plans and profiles of proposed sanitary sewers, with grades and sizes indicated, or methods of sewage disposal in lieu of such sewers.
- (13) A plan of the proposed water distribution system, showing pipe sizes and the location of valves and fire hydrants.
- (14) Zoning boundary lines, if any, proposed uses of property and proposed front yard setback lines.
- (15) All parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved in the deeds for the common use of property owners in the subdivision, with the purpose, conditions or limitations of such reservations indicated.

(Code 1975, § 19-28)

Sec. 78-75. Vicinity sketch.

A vicinity sketch, at a scale of 400 feet or more to the inch, shall be shown on or shall accompany the preliminary plat of a subdivision. The vicinity sketch shall show all existing subdivision and street and tract lines of acreage and parcels of land, together with the names of record owners of such parcels, immediately adjoining the proposed subdivision and between it and the nearest existing highway or thoroughfare. It shall also show how the streets and alleys in the proposed subdivision may connect with the existing and proposed streets and alleys in neighboring subdivisions or unplatted property to produce the most advantageous development of the entire neighborhood.

(Code 1975, § 19-29)

Sec. 78-76. Filing; review and recommendations by planning director and city engineer.

- (a) Five copies of the preliminary plat of the subdivision, together with written application, shall be submitted to the director of planning for his technical review and recommendation, which shall be forwarded to the planning commission. Submittal to the planning director shall be at least 15 days prior to a regular meeting of the planning commission.
- (b) The preliminary plat shall be reviewed by the city engineer as to the adequacy of the design of the proposed utilities and street improvements or other matters under his jurisdiction and he shall recommend to the planning commission approval or rejection.

(Code 1975, § 19-30)

Sec. 78-77. Hearing and recommendation by planning commission.

- (a) Upon receipt of the recommendation of the planning director and city engineer concerning the preliminary plat of a subdivision, the planning commission shall hold a public hearing. Notice of the time and place of such hearing shall be sent by mail to the subdivider and owners of land immediately adjoining or directly across a public street from the proposed subdivision, at least ten days prior to the hearing.
- (b) The planning commission shall forward to the city commission its recommendation as to the tentative approval of the preliminary plat, which recommendation shall be in writing. The recommendation to the city commission shall outline any deficiencies in design of improvements or facilities in the proposed plat.

(Code 1975, § 19-31)

Sec. 78-78. Action by city commission.

- (a) The city commission will not review any preliminary plat of a subdivision until it has received the review and recommendation of the planning commission and all authorities listed in sections 112 to 119 of the Land Division Act (MCL 560.112--560.119).
- (b) The city commission shall take action on the preliminary plat within 30 days of

- the receipt of the recommendation of the planning commission.
- (c) If the preliminary plat meets all of the requirements and conditions laid down for tentative approval, the city commission shall give final approval of the preliminary plat.
 - (d) The city clerk shall promptly notify the proprietor of approval or rejection, in writing. If rejected, the reasons for rejection shall be given.
 - (e) Final approval of the preliminary plat shall be effective for one year, provided that the period may be extended by the city commission upon request of the proprietor.

(Code 1975, § 19-32)

State law reference(s)--Approval of preliminary plat, MCL 560.112.

Secs. 78-79--78-95. Reserved.

Subdivision III. Final Plat*

***State law reference(s)**--Final plats, MCL 560.161 et seq.

Sec. 78-96. Compliance with state law and this subdivision.

The final plat of a subdivision shall comply with the provisions of the Land Division Act (MCL 560.101 et seq.) and this subdivision.

(Code 1975, § 19-39)

Sec. 78-97. Conformity with preliminary plat.

The final plat of a subdivision shall conform substantially to the preliminary plat as approved, and may constitute only that portion of the approved preliminary plat which the proprietor proposed to record and develop at the time.

(Code 1975, § 19-40)

Sec. 78-98. Filing; plan check fee.

Five mylar copies and three prints of the final plat of a subdivision shall be filed with the city clerk, and at the same time, there shall be deposited such sums of money as the city commission may require for a plan check.

(Code 1975, § 19-41)

Sec. 78-99. Review and recommendations by city engineer and planning director.

The final plat of a subdivision shall be reviewed by the city engineer and planning director as to compliance with the approved preliminary plat and plans for utilities and other improvements. Recommendation shall be made by the city engineer and planning director for either approval or rejection of the final plat.

(Code 1975, § 19-42)

Sec. 78-100. Action by the city commission; subsequent approvals; distribution of prints and copies.

- (a) The city commission shall receive all recommendations and take action on the final plat of a subdivision within 20 days of its filing; provided that the city commission will not review the final plat until all necessary improvements are made, or other arrangements made for the installation, by the city, of such improvements as established in division 4 of this article.
- (b) Upon the approval of the final plat by the city commission, the subsequent approvals shall follow the procedure set forth in the Land Division Act (MCL 560.101 et seq.). The three prints of the final plat shall be forwarded: One to the city clerk, one to the planning commission and one to the building inspection department. The five mylar copies shall be forwarded to the city or the county plat board.

(Code 1975, § 19-43)

State law reference(s)--Approval of final plats, MCL 560.167; actions on approval of plat, MCL 560.168.

Secs. 78-101--78-115. Reserved.

DIVISION 3. DESIGN LAYOUT STANDARDS

Subdivision I. In General

Sec. 78-116. Applicability of division.

The subdivision design layout standards set forth under this division are development guides for the assistance of the proprietor. All final plans must be reviewed and approved by the city commission.

(Code 1975, § 19-55)

Sec. 78-117. Suitability of land.

No land shall be subdivided for residential use which is held by the planning commission to be unsuitable for such use by reason of flooding or bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents in the proposed subdivision or of the community.

(Code 1975, § 19-56)

Sec. 78-118. Parks, school sites, etc.

- (a) Where a proposed park or other recreational area, school site or other public ground shown on the adopted master plan of the city is located, in whole or in part, within a proposed subdivision, such proposed public ground or park shall be

dedicated to the city or school district or reserved for acquisition by the city or school district within a period of five years by purchase or other means.

- (b) Where held appropriate by the planning commission, open spaces suitably located and of adequate size for parks, playgrounds or other recreational purposes, for local or neighborhood use, or to preserve scenic or historic features, shall be provided for in the design of the proposed subdivision and shall be dedicated to the city or reserved for the common use of all property owners in the proposed subdivision by covenant in the deeds.

(Code 1975, § 19-57)

Sec. 78-119. Blocks.

Blocks within subdivisions shall conform to the following standards:

- (1) Blocks shall be relatively long, in the interest of economy of street costs and to minimize the number of intersections. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except in special cases where it is desirable to locate the rear of lots on a major thoroughfare with fronts facing a parallel street.
- (2) The length of blocks shall be such as, in the opinion of the planning commission, is appropriate for the locality and the type of development contemplated, but shall not exceed 1,254 feet where the average size of lots does not exceed two acres in area.
- (3) In any block over 900 feet in length, the planning commission may require a crosswalk or pedestrian way, not less than ten feet wide, and to be provided near the center and entirely across the block.
- (4) The number of intersecting streets along highways, major streets and parkways shall be held to a minimum. Whenever practicable, blocks along such trafficways shall not be less than 1,200 feet in length.

(Code 1975, § 19-58)

Sec. 78-120. Lots.

Lots within a subdivision shall conform to the following standards:

- (1) The size, shape and orientation of lots shall be appropriate for the location of the proposed subdivision and for the development contemplated.
- (2) Lot areas and widths shall conform to at least the minimum requirements of the zoning ordinance for the district in which the subdivision is proposed.
- (3) Excessive depths in relation to width shall be avoided. A proportion of two to one shall normally be considered as appropriate, except in cases of narrow lots.
- (4) Lots for residence purposes shall be at least 50 feet wide at the building line, in order to permit compliance with the side yard requirements of the

zoning ordinance and still be adequate for a building of practicable width.

- (5) Corner lots for residential use shall be platted wider than interior lots in order to permit near conformance with the front yard setback on the side street required by the zoning ordinance.
- (6) Every lot shall abut on a street or public way.
- (7) Double frontage lots will not be permitted except that the planning commission may permit such in cases where conformance with this provision will make compliance with other provisions impossible.
- (8) Residential lots fronting major streets and other important traffic ways shall have extra depth to permit setbacks for the buildings.
- (9) Lots shall have a front-to-front relationship across all streets, where possible.

(Code 1975, § 19-59)

State law reference(s)--Lots to have access to streets, MCL 560.186(1)(e).

Sec. 78-121. Natural features.

In the subdivision of land, the natural features and character of the land must be preserved wherever possible. Due regard must be shown for all natural features, such as large trees, natural groves, watercourses and similar community assets that will add attractiveness and value to the property, if preserved. The preservation of drainage and natural stream channels must be considered by the proprietor and the dedication and provision of adequate barriers, where appropriate, shall be required.

(Code 1975, § 19-60)

Sec. 78-122. Floodplains.

Any areas of land within a proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek or lake, or any other areas which are subject to flooding or inundation by stormwater, shall require specific compliance with the Land Division Act (MCL 560.101 et seq.) and its review by the water resources commission of the department of natural resources.

(Code 1975, § 19-61)

State law reference(s)--Floodplain requirements, MCL 560.138.

Secs. 78-123--78-140. Reserved.

Subdivision II. Streets*

***State law reference(s)**--Streets in subdivisions, MCL 560.181 et seq.

Sec. 78-141. Conformity with major street and master plans.

- (a) Whenever a tract to be subdivided embraces any part of a highway, major street or parkway, so designated on the major street plan, such part of such public way shall be platted by the subdivider in the location and at the width indicated on the plan.
- (b) Streets in a proposed subdivision shall conform to the various elements of the master plan and shall be considered in relation to the existing and planned major thoroughfares and collector streets.

(Code 1975, § 19-68)

Sec. 78-142. General layout requirements.

The street layout in a subdivision shall provide for continuation of collector streets in adjoining subdivisions, or of the proper projection of streets when adjoining property is not subdivided, planning or conform to a plan for a neighborhood unit drawn up and adopted by the planning commission. The street layout shall include minor streets so laid out that their use by through traffic shall be discouraged.

(Code 1975, § 19-69)

Sec. 78-143. Half streets.

Half streets shall be prohibited in subdivisions, except where absolutely essential to the reasonable development of the subdivision in conformity with other requirements of this article and where the planning commission finds that it will be practicable to require the dedication of the other half when the adjacent property is developed. Wherever there exists, adjacent to the tract to be subdivided, a dedicated platted or recorded half street, the other half shall be platted.

(Code 1975, § 19-70)

Sec. 78-144. Right-of-way widths.

Street right-of-way widths in subdivisions shall conform to at least the following minimum standards:

- (1) Major streets: In conformance with the major street plan of the city.
- (2) Local streets and collector streets: 66 feet.
- (3) Cul-de-sac streets less than 500 feet in length: 50 feet. Cul-de-sac turn-arounds shall be a minimum of 110 feet in diameter.
- (4) Alleys and service drives: 20 feet.

(Code 1975, § 19-71)

Sec. 78-145. Grades.

- (a) For adequate drainage, the minimum street grade in subdivisions shall be not less than five-tenths percent. The maximum street grade shall be five percent except that the planning commission may make an exception to this standard on the recommendation of the city engineer.

- (b) All changes in street grades in excess of one percent shall be connected by a vertical curve of minimum length equal to 15 times the algebraic difference in the ratio of grade for highways, major streets and parkways, and one-half of this minimum for all other streets.

(Code 1975, § 19-72)

Sec. 78-146. Radii of curvature on center line.

The radii of curvature of the center line of subdivision streets shall be not less than the following:

- (1) Highways, major streets and parkways: 300 feet.
- (2) Local streets, minor streets and service drives: 100 feet.

(Code 1975, § 19-73)

Sec. 78-147. Tangent between reverse curves.

A tangent at least 100 feet in length shall be provided between reverse curves in subdivision streets.

(Code 1975, § 19-74)

Sec. 78-148. Intersections.

Subdivision streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets intersecting with major or collector streets shall do so with a tangent section of the centerline 50 feet in length measured from the right-of-way of the intersection.

(Code 1975, § 19-75)

Sec. 78-149. Jogs.

Street jogs with centerline offsets of less than 125 feet shall be avoided in subdivisions.

(Code 1975, § 19-76)

Secs. 78-150--78-165. Reserved.

DIVISION 4. REQUIRED IMPROVEMENTS*

*State law reference(s)--Improvements generally, MCL 560.188.

Sec. 78-166. Required approvals to be obtained prior to installation; compliance with article.

The approvals required under the provisions of this article shall be obtained prior to the installation of any subdivision or project improvements within the city or under the

ultimate jurisdiction of the city, and such installations shall comply with all of the provisions and requirements of this article or any other related ordinance.

(Code 1975, § 19-88)

Sec. 78-167. Roadway surfacing and curbs.

Roadways in subdivisions shall be surfaced and curbs provided in accordance with standards adopted by the city commission upon recommendation of the city engineer.

(Code 1975, § 19-89)

Sec. 78-168. Sidewalks.

Sidewalks of widths and type of construction in accordance with standard specifications shall be constructed on at least one side of every subdivision street, where the average width of lots is 60 feet or less. Sidewalks shall also be constructed on one or both widths of lots, where, in the opinion of the city commission, such sidewalks are necessary to safeguard the safety of pedestrians.

(Code 1975, § 19-90)

Sec. 78-169. Underground utilities.

All telephone, electric, television and other similar services distributed by wire or cable shall be placed underground entirely throughout a subdivision, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission.

(Code 1975, § 19-91)

Sec. 78-170. Water system.

Every subdivision shall be provided with a complete water distribution system, including a connection for each lot and appropriately spaced fire hydrants. The entire water system shall be designed to meet the approval of the city engineer.

(Code 1975, § 19-92)

Sec. 78-171. Sanitary sewer system.

A sanitary sewer system, including all appurtenances, shall be required in all subdivisions.

(Code 1975, § 19-93)

Sec. 78-172. Storm drainage system.

An adequate storm drainage system shall be required in all subdivisions.

(Code 1975, § 19-94)

Sec. 78-173. Protection of utilities from flood damage.

The planning commission shall require new or replacement water supply systems and/or sanitary sewer systems to be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(Code 1975, § 19-95)

Secs. 78-174--78-190. Reserved.

DIVISION 5. SUBDIVISION OPEN SPACE PLAN (PLANNED UNIT DEVELOPMENT)

Sec. 78-191. Application of division.

The requirements of this division apply in addition to all other requirements of this article, where a preliminary plat is filed for approval under the subdivision open space plan section of the zoning ordinance.

(Code 1975, § 19-106)

Sec. 78-192. Statement of principles.

Consideration by the planning commission and the city commission of proposed optional use of subdivision open space plan shall reflect the following basic principles:

- (1) The subdivision open space section of the zoning ordinance provides an optional method of subdividing property, and approval of any subdivision open space plan is subject to the discretion of the city commission.
- (2) Particular attention shall be given to the effect of a subdivision open space plan upon the immediate area, where the character of that area has been established by previous development. Major attention shall be given by the planning commission and the city commission to the benefits to be derived by the residents of the proposed subdivision and the city because of the subdivision open space plan, with minor consideration to be given to the proprietor.
- (3) The following objectives shall govern the approval or disapproval of the proposed subdivision open space plan, to:
 - a. Provide a more desirable living environment by preserving the natural character of the terrain features.
 - b. Encourage developers to use a more creative approach in the development of residential areas.
 - c. Encourage a more efficient aesthetic and desirable use of the land while recognizing a reduction in development costs and by allowing the developer to bypass natural obstacles.

- d. Encourage the provision of open space so benefits may accrue directly to residents of the subdivision and to further encourage the development of recreational facilities.

(Code 1975, § 19-107)

Sec. 78-193. Contents of application for approval--Description of land to be dedicated.

The application for approval of a subdivision open space plan shall contain, in addition to the information required by other sections of this article, a complete description of the land proposed to be dedicated to the city or to the common use of lot owners (called "open land" in this section) including the following as a minimum:

- (1) Legal description of open land.
- (2) Topographical survey of open land.
- (3) Type of soil in open land.
- (4) Description of natural features on open land. Stands of trees or other vegetation, streams or other bodies of water, etc.
- (5) Other relevant factors.

(Code 1975, § 19-108)

Sec. 78-194. Same--Plan of development.

The application for approval of a subdivision open space plan shall contain the proposed plan of development of the open land and shall include the following as a minimum:

- (1) The proposed manner in which the title to land and facilities is to be held by the owners of land in the subdivision.
- (2) The proposed manner of collection of maintenance costs, financing costs or assessments so that nonpayment will constitute a lien on the property, thus avoiding municipal responsibility in the future.
- (3) The proposed manner of regulating the use of the common facilities and areas so as to eliminate possible nuisances to other property owners and cause for enforcement by the city.
- (4) The proposed method of notifying the city when any change is contemplated in plans that would affect the original specifications approved by the city.
- (5) The proposed method of setting up assessments to cover the contingencies, insurance against casualty and liability and payment of taxes relating to these properties.
- (6) The proposed uses of open land and the proposed improvements which are to be constructed by the proprietor.

(Code 1975, § 19-109)

Sec. 78-195. Same--Statement of benefits.

The application for approval of a subdivision open space plan shall contain a statement of the benefits to be realized by the residents of the proposed subdivision and the city by approval of the proposed subdivision open space plan, with particular reference to the objectives stated in the zoning ordinance.

(Code 1975, § 19-110)

Sec. 78-196. Approval or disapproval.

- (a) If the planning commission is satisfied that a proposed subdivision open space plan meets the letter and spirit of the zoning ordinance and should be approved, it shall recommend such approval to the city commission, with the conditions upon which such approval should be based. Thereafter, the city commission shall take action upon such application in accordance with section 78-99.
- (b) If the planning commission is not satisfied that a proposed subdivision open space plan meets the letter and spirit of the zoning ordinance or finds that the approval of the subdivision open space plan will be detrimental to existing development in the general area and should not be approved, it shall communicate such disapproval to the city commission, with the reasons therefor. The proprietor shall be entitled to a hearing upon such proposal, before the city commission, upon written request therefor filed with the city clerk.

(Code 1975, § 19-111)

Sec. 78-197. Contract between city and proprietor.

If the city commission gives approval to a proposed subdivision open space plan, it shall instruct the city attorney to prepare a contract setting forth the conditions upon which such approval is based, which contract, after approval by the city commission, shall be entered into between the city and the proprietor prior to the approval of any final plat based upon the approved preliminary plat.

(Code 1975, § 19-112)